

Decision Memo

2019 Recreation Residence Projects –Crescent Lake

USDA Forest Service
Crescent Ranger District, Deschutes National Forest
Klamath County, Oregon

Background

The Crescent Ranger District maintains 66 recreation residence permits on Odell Lake and 72 on Crescent Lake. Each year, permittees may submit applications for repairs and alterations to their privately-owned structures to ensure safety, accessibility, and compliance with regulations, as well as upgrades as permitted under conditions outlined in the recreation residence special use permit language. Upon acceptance of these project requests, the Forest Service is required to conduct a National Environmental Policy Act of 1969 (NEPA) analysis on any project that may alter the character of a residence or that includes any ground-disturbing activity. This Decision Memo covers one recreation residences and their associated projects¹ on Crescent Lake: CL-15.

Purpose and Need

There is a need to maintain recreation residence structures and associated improvements in a safe condition that provides for accessibility, ensures compliance with County, State and Federal regulations, and allows for upgrades as permitted under conditions outlined in the recreation residence special use permit language.

Proposed Action

I am approving the following actions to meet this purpose and need. All design features and dimensions for construction, materials, and colors to be utilized will be in accordance with the Special Uses Handbook (FSH 2709.11), the R6 Supplement No. 2709.11-94-1, and the Deschutes National Forest Guidelines for Recreation Residences, implemented 2009.

Cabin CL-15: Project 1: Cabin remodel: Project includes replacing the metal roof with a new metal roof. Adding two dormers with windows (3 in each) to structures southeast elevation. Add a single dormer with windows (6 total) on the northwest elevation. Replace windows with new windows, including relocating a set of existing windows and increasing their size. Removing old existing porch on southwest side and replace with new larger porch. Add new entry porch on the north elevation. Extend porch on the northeast elevation to meet southeast wall to create a new porch structure. Enclosure a portion of the area below deck to create a storage area include a new door. Add steps to northeast entrance. Changing style of exterior siding in places. Replace deck and railing. New exterior doors. Ground disturbance proposed to install new foundation wall for storage area, retaining walls, and footing for deck replacement, and new porch. Exterior design to meet current Region 6 regulations and design criteria.

Project 2: Storage shed remodel: Remove all roofing and roof sheeting, 2x4 rafters, collar ties, and all log siding. Replace with new roof structure (2 x 6 rafters) sheeting, and standing seam metal roofing. New siding to be horizontal siding, with gable ends siding to be vertical 2" wide battens. New roof pitch, material including color, and siding to match primary structure.

¹ Some recreation residences have more than one project.



The projects are located in Klamath County, Oregon, with a legal description of T24S, R6E, Section 15, Willamette Meridian (Figure 1).

Reason for Categorical Exclusion and Findings

Decisions may be categorically excluded from documentation in an environmental impact statement or environmental assessment when they are within one of the categories listed in 36 CFR 220.6(e), and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

Category of Exclusion

The appropriate category of exclusion is found in the Forest Service National Environmental Policy Act (NEPA) regulations at 36 CFR 220.6(e)(3). This category is appropriate because the project involves “...approval, modification, or continuation of minor special uses of NFS lands that require less than five contiguous acres of land.”

Relationship to Extraordinary Circumstances

In determining the appropriateness of using the categorical exclusion, a determination of the potential impact to the resource conditions identified in FSH 1909.15 Section 30.3(2) must be made. The following is the list of the potential effects to the resource conditions from the project activities.

1. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.

- **Wildlife:** This project would have “**No Effect**” to the northern spotted owl and designated critical habitat and would not contribute to a negative trend in viability on the Deschutes National Forest. This project would have “**No Effect**” to the gray wolf, North American wolverine, pacific fisher, or the Oregon spotted frog or its Critical Habitat.
 - This project would have “**No Impact**” to the northern bald eagle.
- **Plants:** This project would have “**No Effect**” to any threatened, endangered, and “**No Impact**” to R6 Sensitive plant species.
- **Fisheries:** This project would have “**No Effect**” to any threatened, endangered and “**No Impact**” to R6 Sensitive fish species or habitat.

2. Flood plains, wetlands, or municipal watersheds

Executive Order 11988 provides direction to avoid adverse impacts associated with the occupancy and modification of floodplains. Executive Order 11990 provides direction to avoid adverse impacts associated with destruction or modification of wetlands. The project is consistent with both executive orders.

- This project would have no effect to either floodplains or wetlands.
- There would be no adverse effects to a municipal watershed because the project is not located within or adjacent to a municipal watershed.

3. Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas

The proposed project is not within a Wild and Scenic River corridor. The closest is the Crescent Creek Wild and Scenic River corridor, which is approximately one quarter mile to the east of the closest recreation residence on Crescent Lake and would not be impacted by the proposed actions. The project area is not located within any Wilderness, Wilderness Study Areas, or National

Recreation Areas. The closest Wilderness Area is the Diamond Peak Wilderness, which is approximately ¼ mile away and separated from the Crescent Lake recreation residence tracts by the FS 60 road. The only potential wilderness impact would be from noise associated with project work; however, the noise level would not be more than that associated with normal recreation and railroad activities in the area and limited in duration (for the construction period only).

The Crescent Lake recreation residences are approximately one mile from the edge of the Oregon Cascades National Recreation Area (OCRA). There is no proposed activity in the OCRA.

4. *Inventoried roadless areas or potential wilderness areas*

The project is not located within any Inventoried Roadless Areas (IRA) or potential wilderness areas. The nearest Inventoried Roadless Area is the Maiden Peak IRA, which lies approximately six miles north of the Crescent Lake recreation residences. Due to the distance there would be no impacts to this IRA from these projects. The project is not within a potential wilderness area, nor will it affect any of the criteria for inventorying potential wilderness (ie. – no roads will be built and no timber will be cut).

5. *Research Natural Areas*

There are no existing or proposed Research Natural Areas (RNA) in or adjacent to the project. The nearest Research Natural Area is the Gold Lake Bog RNA, which is approximately 10 miles to the northwest on the Willamette National Forest.

6. 7. *American Indian and Alaska Native religious or Cultural Sites, Archaeological Sites, or Historic Properties of Areas*

These projects were subject to standard case-by-case review for *No Historic Properties Affected* under the 2004 Programmatic Agreement among the USDA-Forest Service, the Advisory Council on Historic Preservation, and the Oregon State Historic Preservation Office. This project has been determined to be compliant with Section 106 of the National Historic Preservation Act.

Based on the conclusions regarding the effects to the resources and conditions listed above, I have determined the projects will have no extraordinary circumstances that may result in a significant direct, indirect, or cumulative effect on the quality of the human environment.

Public Involvement

Public scoping and Tribal consultation were conducted in conjunction with the release of the preliminary Decision Memo. This project was also listed in the Deschutes National Forest Schedule of Proposed Actions and on the Forest Service website. Comments were accepted from May 16th, 2019 through June 19th, 2019. The Confederated Tribes of the Warm Springs and The Klamath Tribes responded with interest in the project.

Consistency with Deschutes Land and Resource Management Plan

I have reviewed the *Deschutes National Forest Land and Resource Management Plan and Record of Decision 1990* (Forest Plan), as amended by the *Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl* (Northwest Forest Plan, 1994) and the *Pacific Northwest Region Invasive Plant Program 2005*, and have determined that the project is consistent with the amended Forest Plan goals, objectives, and standards and guidelines. Biological Evaluations were prepared for Sensitive, Threatened, and Endangered animal, plant and aquatic species and are located in the project file at the Crescent Ranger District. Also, the project meets all of the applicable Project Design Criteria from the 2014 Programmatic Biological Assessment for central Oregon.

Survey and Manage

This project is consistent with the January 2001 *Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines* as altered by the 2011 Consent Decree and the May 13, 2014 Letter of Direction.

Wildlife- This project applies the Survey and Manage species list in the 2001 ROD.

- Great gray owl, (*Strix nebulosa*), Vertebrate, Category C. No potential habitat.
- Crater Lake tight coil (*Pristiloma artium crateris*), and evening fieldslug (*Deroceras hesperium*) Mollusk, Category B, included in analysis for sensitive species. Implementation of the proposed project will not alter wetland habitat therefore would not impact the evening field slug or the Crater Lake tightcoil.

Additional National, State, and Local Laws and Direction

This project does not include any burning or actions that would cause more than incidental dust. The project will not compromise air quality and is therefore consistent with the Clean Air Act of 1963 as amended.

This project is consistent with the Clean Water Act of 1972. Within the project area, Crescent Creek is currently listed for temperature on the 303(d) list and Crescent Lake is not listed. The proposed projects would not affect the temperature and Project Design Features are in place to reduce the potential for sedimentation and runoff to the lake.

This project will not disproportionately affect any social groups or civil rights. The U.S. Department of Agriculture prohibits discrimination in its employment practices based on race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital and family status. This project will not have any disparate effects on any consumers, minority groups, women, civil rights, or social/ethnic groups. This project will be compliance with Executive Order 12898, Environmental Justice.

This project is consistent with the Endangered Species Act of 1973. This project will be compliant with Executive Order 13186, Conservation of Migratory Birds related to the Migratory Bird Treaty Act (MBTA) of 1918, as amended.

Implementation

When the Decision Memo is signed, project implementation can begin once final approval is received from the Crescent District Special Uses Administrator. The following project design features will be included to meet project objectives and/or to reduce or minimize unwanted effects:

Cultural

- For any ground disturbance work- if imported fill is utilized it must be from a culturally sterile source (meaning there is no possible contamination from fill originating from another buried archaeological site).
- If, prior to, or during construction work, items of archeological or historical value are reported or discovered, or an unknown deposit of such items is disturbed, work would immediately cease activities in the area affected. The Forest Service would be notified and ground disturbing activity would not resume until written authorization is provided.
- Should human remains be encountered, the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001 et seq. [Nov. 16, 1990] and its regulations (43 CFR §10) would apply.

Botany

- Equipment Cleaning - Actions conducted or authorized by written permit (contracts) require cleaning of all heavy equipment (i.e., bulldozers, skidders, and other construction equipment) prior to entering National Forest lands. Equipment will be inspected on-site by the Forest Service project manager or the District botanist prior to start of work.
- All gravel, fill, sand stockpiles, quarry sites and borrow materials used for this project will be inspected for invasive plants before such material is transported and used within National Forest lands. Any infested sources must be treated before use of pit material. Only gravel, fill, sand, and rock that are judged to be weed-free by District or Forest weed specialists will be used for this project (Requirement R6 Standard #7).

Transportation

- For any National Forest system road related activities please contact the Crescent Ranger District's Road Manager/Transportation Planner at (541)433-3254 at least 10 working days prior to the proposed activities. Issuance of a road use permit may be required.
 - Road related activities may include but are not limited to; Commercial hauling (sale of a good or service regardless of profit on National Forest Service lands), road use outside of authorized access or any road maintenance activities including snow removal.

Soils/Hydro

- When rain is expected, all exposed soils should be secured (i.e. put soil back in ditch, take soil off steeper slopes, instill a sediment catch fence etc.). If a precipitation event is expected to produce overland flow, it is recommended that the project be discontinued until conditions dry out. At the completion of the project soils should be secured, and adequate vegetative cover and drainage structure provided (FAC-2).
- No used building material will be disposed along the shoreline.
- Pressure treated materials is not allowed.
- All refueling and storage of equipment will occur more than 25 feet from water.
- Equipment operators/operations will have a spill kit on site on site of sufficient size to clean up and prevent further contamination.
- Forest Service will be informed of any observed petroleum spills.

Individual Design Features

- **CL-15-** All excess material from either the obliteration or construction of new structure will be removed from the site and properly disposed of. Material will not be used for bank stabilization (FAC-2).

Mitigation Measures

To mitigate disturbance to the northern spotted owl the following season restrictions will apply to **all Crescent Lake Recreation Residences:**

1. No disturbance activities such as use of heavy equipment (large excavators, backhoe, dump truck) and chainsaws will be conducted during periods of seasonal restriction.
 - a) **Spotted owl restrictions: March 1st through September 30th**, applies to the recreational residences improvement areas unless disturbance surveys are completed according to the 2012 Revised Protocol for Surveying Proposed Management Activities that may impact Northern Spotted Owls (USFWS rev. 2012 at 9.0 pg17).

Note: Contact the District Special Uses Administrator to see if a waiver is possible prior to commencing any work within the spotted owl seasonal restriction.

Best Available Science and Conclusion

My conclusion includes a review of the record of relevant scientific information, a consideration of responsible opposing views, and the acknowledgment of incomplete or unavailable information, scientific uncertainty, and risk.

Administrative and Appeal Rights

The final decision is not subject to appeal or objection. On January 17, 2014, the President signed into law the Consolidated Appropriations Act of 2014 (Pub. L. No. 113-76). Section 431 of that Act directs that the 1992 and 2012 legislation establishing the 36 CFR 215 (post-decisional appeals) and 36 CFR 218 (pre-decisional objections) processes "shall not apply to any project or activity implementing a land and resource management plan ... that is categorically excluded ... under the National Environmental Policy Act [NEPA]." As a result, the Forest Service no longer offers notice, comment, and appeal opportunities pursuant to 36 CFR 215 for categorically excluded projects such as the one covered under this Decision Memo.

Contact Information

For additional information concerning this project, contact Meria Page, Special Uses Administrator at Crescent Ranger District, 136471 Hwy 97 N/ P.O. Box 208, Crescent OR 97733, or by phone at (541) 433-3200.



DANIEL RIFE
District Ranger
Crescent Ranger District

11-19-2019

DATE

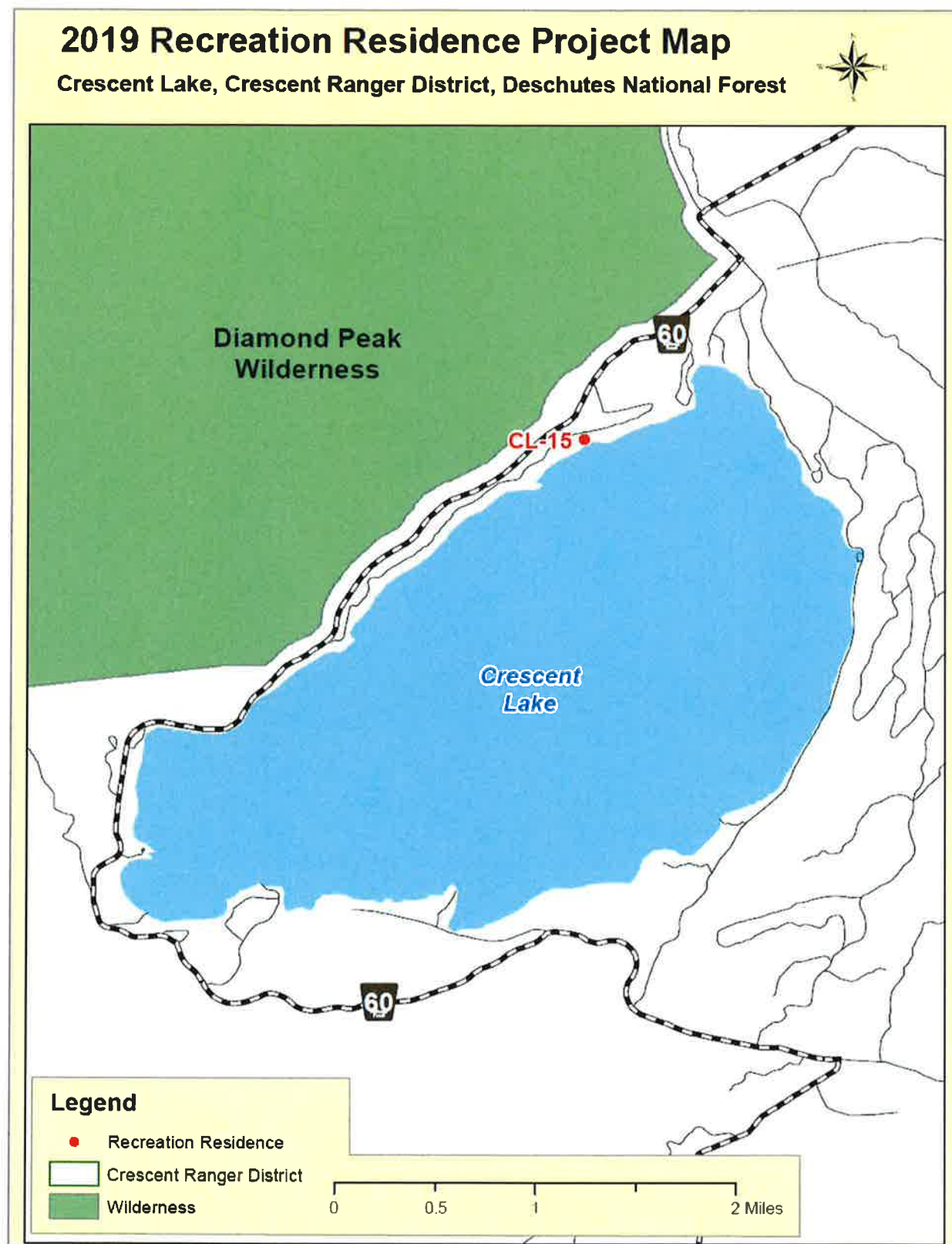


Figure 1 – Crescent Lake 2019 Recreation Residence Locator Map

